



## II. PARTIES

- 2.1. Plaintiff is an individual residing in Hays County, Texas.
- 2.2. Defendant Thomas R. Phillips is an individual residing in Bastrop County, Texas who may be served with process by serving him by certified mail, return receipt requested, at his place of business, the law firm of Baker & Botts, 98 San Jacinto Blvd., Ste 1500, Austin, Texas 78701.
- 2.3. Defendant John R. Coppedge, M.D. is an individual residing in Gregg County, Texas who may be served with process by serving him by certified mail, return receipt requested, at his residence at 1725 FM 2751, Longview, Texas 75605.
- 2.4. Defendant TEXAS BIPARTISON JUSTICE COMMITTEE ("TBJC") is a Political Action Committee associated with Defendant Coppedge that may be served with citation by certified mail, return receipt requested, by delivery of citation to its Treasurer, Defendant John R. Coppedge at 1725 FM 2751, Longview, Texas 75605.
- 2.5. Defendant THE TEXAS TRIBUNE, INC. (the "TEXAS TRIBUNE") is a non-profit media corporation that may be served with citation by certified mail, return receipt requested, by delivery of citation to its registered agent, Evan Smith at 823 Congress, Suite 210, Austin, Texas 78701.
- 2.6. Defendant Morgan Smith ("Smith") is an individual believed to be residing in Travis County, Texas who is an employee / writer for Defendant Texas Tribune and who may be served with process by serving her by certified mail, return receipt requested, at her place of business, Defendant Texas Tribune, at 823 Congress, Suite 210, Austin, Texas 78701

2.7. Defendant TEXAS ASSOCIATION OF REALTORS, INC. ("TAR") is a corporation that may be served with citation by certified mail, return receipt requested, by delivery of citation to its Registered Agent, Benny McMahan, at 1115 San Jacinto Boulevard, Suite 200, Austin, Texas 78701.

2.8. Defendant TEXAS ASSOCIATION OF REALTORS POLITICAL ACTION COMMITTEE ("TREPAC") is a political action committee associated with Defendant Texas Association of Realtors, Inc. that may be served with citation by certified mail, return receipt requested, by delivery of citation to its Treasurer, Raymond C. Doss, at 1115 San Jacinto Blvd, Suite 200, Austin, Texas 78701.

### **III. JURISDICTION AND VENUE**

3.1 Venue is mandatory in Hays County, Texas pursuant to §15.017 of the *Texas Civil Practice and Remedies Code* in that this is a lawsuit for libel and Hays County, Texas is the county in which Plaintiff resided at the time of the accrual of the cause of action and Plaintiff elects Hays County as the County for suit.

3.2 This Court has subject matter jurisdiction over this case in that the damages being sought herein exceed the minimum jurisdictional limits of the Court.

### **IV. FACTS**

4.1 Green is an attorney, author, speaker, and former member of the Texas Legislature, where he represented Dripping Springs, Texas from 1999 – 2003. In 2009 he announced his candidacy for Place Three on the Texas Supreme Court. He finished as the leading recipient of votes among the six candidates in the Republican primary on March 2, 2010. That put him in a runoff to determine the Republican who would challenge the Democratic candidate in the general election. Green's initial victory in the

Republican primary did not sit well with some activists within the Republican Party and members of the media.

4.2 For many years Green has been an outspoken advocate for conservative causes, family values, Constitutional issues concerning the proper role of government, and the historically accurate views and actions of America's founding fathers. Some of his views have not been popular with certain social and political organizations and individuals. In addition, during the course of his years of service and advocacy, Green has admittedly made mistakes that he regrets and that have brought criticism and opposition, including from within his own Republican Party. The combination of his political and social positions and the mistakes he has made has caused consternation and opposition both from the media and from individuals and organizations on both ends of the political and social spectrums.

4.3 Green readily admits that his views and his mistakes are "fair game" in the world of politics and public life and that the public has a right to know – and should know – the truth about such matters so that he and his views may be accurately assessed and evaluated. As a passionate advocate of free speech and the First Amendment to the United States Constitution, Green fully supports the right of the media, individuals, and organizations to report and offer opinions about the background, qualifications, character, views, and activities of candidates for public office. Yet even in the often "dirty" world of politics, there are limits. Even with respect to public figures, there are rules of decency and fair play – however low that bar may be – beneath which folks should not be permitted to crawl. There is a line that should not be crossed. While political and social opposition is to be expected and exaggeration and mean-spirited personal attacks are

generally tolerated, character assassination by the concoction and reporting of absolute falsehoods are not permitted even in a free society and even in the world of politics. This “line” is defined by state and federal laws prohibiting defamation. Defendants in this case have crossed over that line.

4.4 Once Green “won” the first round of the Republican primary, Defendants engaged in actions, some individual and some collaborative, that constitute libel under the defamation laws of the state of Texas. Some of these actions were taken with the express intent of trying to assure that Green did not prevail in the Republican primary runoff election. As noted above, Green’s views and actions were fair game, and the Defendants took full advantage to make sure such items were highlighted, commented on, and criticized. Green does not complain about those reports that were truthful. Others, however, involved complete falsehoods that were reported or represented to be actual fact. Such matters were published with the intent of damaging Green’s reputation, particularly among voters, and, more generally, his political and speaking career.

4.5 The libelous statements by the Defendants herein involve the particular matters set forth below.

A. Statements about alleged “censure.”

1. The allegation: It is alleged that Green, while serving as a member of the Texas Legislature, was “censured” by his colleagues for filming an infomercial about nutritional supplements in his office in the state Capitol.

2. The truth: Green does have significant experience in the area of nutritional supplements. While in law school, Green started and ran a nutritional supplements company which he built from the ground up and sold in the mid 1990’s. He not only

knew the industry from a business perspective, but also as a consumer since he used some of the products himself. In 1999 he was asked by the owners of Vital Basics, Inc., a company unrelated to Green's and whose owners he did not know, to give an interview concerning his views and experience with a certain Vital Basics, Inc. supplement. They told Green that his name was on a list of names of people using the product. Green agreed to their request for an interview, but told them they would need to come to him because he was extremely busy. The interview was in fact given from his office in the state Capitol building, just as were very many other interviews given by him and numerous other members of the Legislature. Green recalls that he was interviewed for about 20 minutes, and that a couple of minutes of that interview ended up in a much-longer infomercial aired by Vital Basics. Green was not paid for the interview and had no proprietary or financial interest in the company conducting the interview, in the infomercial itself, or in the product about which he was interviewed. He did not personally profit in any way from the interview. Attached hereto as Exhibit "A" is a copy of a letter from Vital Basics confirming these facts.

3. The falsehood: The allegations concerning this matter are false. (1) Green was never "censured", brought up for "censure," or formally or even informally rebuked or criticized by the body of the legislature. "Censure" is an official rebuke, as by a legislature of one of its members. Not only was Green never censured, he is not even aware of any of his legislative colleagues even suggesting or asking for or contemplating such an action. (2) The allegations falsely state that it was Green himself producing an infomercial for a product he was selling for himself, neither of which is true. (3) The allegations also create the false impression that Green had some proprietary or financial

interest in the infomercial, the company that aired the infomercial, or the product marketed in the infomercial.

B. Statements alleging that Green put pressure on the Texas Parole Board to release an inmate who allegedly owed his father money.

1. The Allegation: It has been alleged that Green put pressure on the Texas Parole Board to release a felon who allegedly owed \$400,000 to Green's father.

2. The truth: Green and his family were long-time friends of Melvin Cox, who was the principal in a company named Fairfield Investment Company. Krestmont International, Inc. was the company referenced earlier that Green founded in 1993 and built from the ground up. Green's father was also involved in Krestmont. By approximately 1996 Green was completely out of Krestmont, which was then entirely owned and operated by his father. Over a period of approximately three years, Krestmont borrowed \$400,000 from Fairfield, which amount was rolled into a consolidated loan note in that amount and represented the entire amount owed to Fairfield by Krestmont. Following an SEC investigation, the assets of Fairfield and Cox were seized and placed into a federal receivership. One of those assets was the Krestmont debt to Fairfield. The federal court-appointed receiver for those assets has confirmed that the entire loan was satisfied by Krestmont via the payment of cash and stock. He also confirmed that "after thorough investigations by the SEC, the FBI and my office, I am not aware of any wrongdoing on the part of either Richard Green, Sr. or Richard Green, Jr." Attached as Exhibit "B" is a letter dated September 11, 2002 from Richard Mays, the federal court appointed Receiver, confirming these facts. Cox ultimately went to prison. Sometime after these events, Cox's wife – who at the time was in her 80's – expressed great concern

to Green that her husband – who at the time was in his 70’s and in very poor health – would die in prison. She asked Green if he could assist in getting Cox released from prison on parole due to his extremely poor health. Out of compassion for an old family friend and his wife, Green followed the appropriate legal proceedings -- the same procedures available to any other lawyer / person – in seeking the release of Cox on a special needs parole due to age and failing health. Green engaged another lawyer to assist in the effort of filing the proper paperwork. Green never personally met any members of the Texas Parole Board and has not to this day, to his knowledge, ever met or spoken by telephone to any of the Board Members. The only communication Green had with the Parole Board of any type was through the paperwork that was filed requesting the release and through calls to the clerks to confirm receipt of paperwork. Cox was released on parole through the exact same legal, proper process as is available to other aging inmates.

2. The falsehood: Various versions of this story have been presented, all creating the impression that something nefarious was involved. Some of the versions contain absolutely false “facts” that defame Green. These include: (1) that it was Cox that owed money to Green’s father rather than money previously owed *to* a Cox company *by* a company owned by Green’s father; (2) that the money was owed at the time of Green’s activity working for the release of Cox from prison rather than a debt that had been completely satisfied prior to any work on the release by Green; and (3) that Green “pressured” or “pushed” the Parole Board for the release when instead Green did not even have any contact with the Parole Board other than via the filing of paperwork



following standard procedures available to anyone advocating on behalf of an aged and unhealthy inmate; therefore (4) creating a false and defamatory impression of events.

C. Statements alleging a criminal grand jury investigation:

1. The allegation: It has been alleged that Green was the subject of a criminal grand jury investigation concerning [alleged] lobbying efforts on behalf of Metabolife International. It was alleged by one Defendant that Green was the subject of an investigation by the Travis County DA's office regarding the matter.

2. The truth:

a. During his tenure as a State Representative in the Texas Legislature, Green appeared at a public hearing before the Texas Department of Health that was considering new labeling rules for nutritional supplements. At the time, Section 572.052 of the Texas Government Code expressly permitted members of the Legislature to appear and give testimony in such public hearings so long as they disclosed that they were being compensated for the representation. In his testimony, Green acknowledged (1) that he was a member of the legislature, but was not there testifying as a member of the legislature, (2) that he had extensive interest and background in the area of nutritional supplements, but was not there testifying based on such personal interests, and (3) that he was an employee of a law firm that represented Metabolife International and that he was there testifying on behalf of his firm's client, Metabolife.

b. Although Section 572.052 expressly permitted representatives to testify in public hearings under such circumstances, the Travis County Attorney's office (not the DA's office) took the position that *all such* testimony was improper. Some time after Green's testimony before the Texas Department of Health, the County Attorney's office

began an investigation into a possible criminal violation of Section 572.052 of the Government Code. Green was one of many Representatives who were part of that investigation.

c. Due to a conflict of interest, the Travis County Attorney's office ended up referring the investigation to the Travis County District Attorney's office. The DA's Public Integrity Unit reviewed the matter and determined that the case should be closed without charges or presentation to a grand jury. Attached as Exhibit "C" is a letter dated March 23, 2009 from the Travis County District Attorney's office confirming these facts and that the case was closed administratively on July 28, 2006.

3. The falsehood: The allegation about a "criminal grand jury investigation" was completely false. There was no grand jury investigation, criminal or otherwise. Moreover, even the allegation about an investigation by the DA's office was very misleading because it omitted the following pertinent facts: (1) that the matter was before the DA's office in the first place only because of a referral due to a conflict of interest by the County Attorneys' office; (2) that upon "review" by the DA's Public Integrity Unit it was determined that the matter should be closed without charges or presentation to the grand jury; and (3) that the case was closed "administratively" nearly four years before the defamatory statements at issue in this lawsuit were made. In the context of accusations about allegedly factual ethical lapses, these statements and omissions created the false impression that the DA's office determined that there was wrongdoing on the part of Green.

D. Statement alleging pressure on lobbyists to donate to private foundation:

1. The Allegation: It was alleged that Green “pressured” lobbyists to donate to a private foundation run by Green while he was in the Legislature, that Green “came under fire” for such activity, and that this conduct constituted an “ethical lapse.”

2. The truth: Green sent out an invitation to many people inviting them to a dinner hosted by him and the Torch of Freedom Foundation that was keynoted by Ambassador Alan Keyes, a public dignitary and conservative spokesman. Tickets were \$100 per person with sponsorship levels available for anyone interested. This was the same type of “per plate” dinner hosted regularly by people and groups in and out of politics. A copy of a sample of the invitation sent out to invitees is attached Exhibit “D.”

3. The falsehood: The statements were false because: (1) No “pressure” was put on anyone to attend the dinner and no “pressure” was put on anyone who did attend to donate anything to anyone; (2) there was no “ethical lapse” or “lack of judgment” involved and (3) the only “fire” aimed at Green in connection with the matter was from media and others concocting ammunition to be “fired” at Green for purely political purposes.

4.6 The Particular Defendants committed Defamation against Green as set out below:

A. Defamation by Defendants Coppedge, Phillips, and the TBJC:

1. Defendant Coppedge is a doctor, a political activist, and (at least at all times pertinent hereto) Treasurer of Defendant TBJC. Defendant Phillips is an attorney and, for 16 years, was the Chief Justice of the Texas Supreme Court.

2. A letter dated April 2, 2010 (the “April 2<sup>nd</sup> Letter”), signed by both Coppedge and Phillips, urged Texas voters to vote for Green’s opponent in the Texas

Supreme Court Race. The letter is under the letterhead of "Honorable Tom Phillips" "Former Chief Justice Supreme Court of Texas." The "footer" on the Letter states it was a political ad paid for by TBJC.

3. The April 2<sup>nd</sup> Letter states as fact that Green was guilty of "several disturbing ethical lapses and lack of judgment." The Letter then identified several absolutely false "facts" that supposedly constituted some of the "disturbing ethical lapses and lack of judgment." These included the following:

a. Green "drew censure from his legislative colleagues for filming an infomercial in his Capitol office for Focus Factor." This statement is completely false in three independent respects: (1) Green did not "draw censure" from anyone, much less his "legislative colleagues" in connection with the matter; (2) Green did not film an infomercial; he simply gave a short videotaped interview which was later used in an infomercial; and (3) the impression created by these false statements and the accusation that they constituted "ethical lapses" falsely suggested that Green had a proprietary or financial interest in either the company or the infomercial when he had no such interest in the matter.

b. "Green also came under fire for pushing the Texas Parole Board to release a man who owed \$400,000 to a company owned by Green's father." This statement is completely false: (1) The man, Cox, did not owe money to anyone or any company affiliated with Green or his father; rather, (2) the money was at one time owed by Krestmont, owned by Green's father, to Cox's company Fairfield; (3) the debt that had been owed by Krestmont to Fairfield had been satisfied prior to the representation of Cox before the Parole Board, so no money was owed either way at the time of that

representation; (4) these false facts create an even worse false impression that the efforts to obtain the release of an old (and elderly) family friend was motivated by some improper financial gain; (5) Green did not “push” the Parole Board to do anything; he and another attorney followed the legal procedures available for the precise purposes of seeking parole of an inmate and aside from the filing of the paperwork, Green had no contact with the Parole Board where any “pushing” could have taken place; and (6) the only “fire” Green came under from any of the foregoing was from media and individuals (like Coppedge and Phillips) who disseminated false information about Green for political purposes.

c. “Green lost his seat in the legislature to Patrick Rose soon after a criminal grand jury investigation of Green’s activity lobbying the Texas Department of Health on behalf of ephedra-maker Metabolife International.” As noted above, Green was never subject to any such “criminal grand jury investigation” and even the DA’s inquiry was dropped following a determination by the DA’s Public Integrity Unit that the case should be closed without charges or presentation to a grand jury.

d. “Green also came under fire for . . . pressuring lobbyists to donate to a private foundation run by Green.” As noted above, the event at issue was simply a per-plate dinner honoring and keynoted by Ambassador Alan Keyes that invitees were completely free to attend or not attend. No pressure was put on anyone either to attend or to donate anything to anyone. No “fire” was aimed at Green other than such as was politically-motivated.

4. Although dated "April 2, 2010," the Letter was also distributed by these Defendants after that date by facsimile, letters to the editors of newspapers, and likely otherwise.

5. Prior to sending the April 2, 2010 Letter, Defendant Coppedge had distributed similar defamatory statements to others via a "Silly Season" letter he distributed. That prompted an email from Green to Coppedge pointing out numerous of the factual errors. Despite being put on notice that the statements were false and libelous, Coppedge nevertheless persisted in publishing the April 2, 2010 Letter with Defendants Phillips and TBJC. Defendant Phillips either knew of the falsity of the statements set out above or was reckless with regard to whether or not they were true. Defendant TBJC is charged with the knowledge and recklessness of its members, including Defendants Coppedge and Phillips. A review of TBJC's July 15, 2010 GPAC form filed with the Texas Ethics Commission reveals that all of TBJC's expenditures through the first half of 2010, just over \$20,000, were spent on behalf of Green's opponent in the Republican primary run-off election. Defendants Coppedge, Phillips, and TBJC all acted with actual malice in publishing the foregoing defamatory statements.

B. Defamation by Defendants Texas Association of Realtors and TREPAC:

1. Defendant Texas Association of Realtors, Inc. ("TAR"), one of the largest professional membership associations in Texas, is an advocacy organization for Texas realtors. On April 1, 2010 TAR distributed an email critical of Green and endorsing his opponent in the Texas Supreme Court race (the "April 1<sup>st</sup> TAR Letter"). The substance of the letter was in a boxed "letter" that was actually a paid political advertisement, though that fact was not readily apparent in the format of the email. The advertisement was paid

for by Defendant TREPAC. The April 1<sup>st</sup> TAR Letter encouraged members to vote against Green, stating as fact certain bullet points intended to help voters “solidify their position on this race.” Some of these bullet points were false and constitute defamation against Green by TAR and TREPAC. Among the false bullet points were the following:

a. “[A]s a State Rep.” Green “garnered censure for filming an infomercial for a diet supplement filmed in his Capitol office.” This statement is completely false for the reasons set out above concerning the censure issue.

b. Green was “[i]nvestigated by a criminal grand jury for lobbying the Texas Department of Health on behalf of a diet supplement while serving in the House.” For the same reasons noted above with respect to this issue, this statement is false. Green was never subject to any “criminal grand jury investigation” and even the DA’s review of the referral from the County Attorneys’ office was administratively closed nearly four years before TAR’s allegation following a determination by the DA’s Public Integrity Unit that the matter should be closed without charges or presentation to a grand jury.

c. Green “successfully worked to get the parole board to release a felon who owed his father \$400,000.” This statement is completely false for the same reasons set out above, including but not limited to the facts that the “felon,” Cox, did not owe money to anyone or any company affiliated with Green or his father; (2) the debt that had been owed by Krestmont to Cox’s company had been satisfied prior to the representation of Cox before the Parole Board, so no money was owed either way at the time of that representation; (3) these false facts create an even worse false impression that the efforts to obtain the release of an old (and elderly) family friend was motivated by some improper financial gain; (4) Green did not “push” the Parole Board to do anything; he

and another attorney followed the legal procedures available for the precise purposes of seeking parole of an inmate; and (5) Green did not even communicate with the Parole Board, except with respect to filing the standard paperwork in connection with the matter.

d. Green “pressured lobbyists to donate to a private foundation he ran.” This statement was false in that, as noted above, (1) the event at issue was simply a per-plate dinner honoring and keynoted by Ambassador Alan Keyes that invitees were completely free to attend or not attend; and (2) no pressure was put on anyone either to attend or to donate anything to anyone.

2. Defendants TAR and TREPAC acted with actual malice in publishing the foregoing defamatory statements.

### C. Defamation by The Texas Tribune and Morgan Smith

1. Defendant Texas Tribune, Inc. (“Tribune, Inc.”) is a non-profit media corporation that publishes The Texas Tribune (the “Tribune”), an online publication focusing on a number of public matters, including government, politicians, and political campaigns. Defendant Morgan Smith is a writer for the Tribune.

2. On April 12, 2010 the Tribune posted an article on its website (the “April 12<sup>th</sup> Article”) entitled “Can the Democrats Win a Supreme Court Race.” The Article, which was written by Smith and is still on the website as of the filing of this lawsuit, was highly critical of Green and made express references to Green being “baggage-laden”, having a “questionable history,” as reflected in “those ethical lapses” and “that late-night infomercial,” and possessing an “ethically-murky past.” Each of the underlined phrases in the preceding sentence was a hyperlink to a prior article. The “baggage laden” and “questionable history” links connected to a March 8, 2010 Tribune article also authored



by Defendant Smith. This article stated, as fact, the following: (1) Green's "early morning infomercial . . . attracted censure from colleagues and the media"; (2) Green's lobbying on behalf of Metabolife "prompted a criminal investigation from the Travis County district attorney's office"; (3) "While in the Legislature, Green also drew criticism for successfully pushing the Texas Parole Board to release a man who owed \$400,000 to a company his father owned"; and (4) he "pressured lobbyists to donate to his Torch of Freedom Foundation.

3. As addressed above, each of these allegations is false both in specific details and in the overall impression.

4. Defendants Texas Tribune and Smith acted with actual malice in publishing the foregoing defamatory statements.

**V. COUNT 1: Defamation by Defendants Coppedge, Phillips, TBJC, TAR, TREPAC, and Smith against Plaintiff Green**

5.1 Plaintiff incorporates all of the foregoing and succeeding paragraphs into Count 1 to the extent not inconsistent herewith.

5.2 Defendants Coppedge, Phillips, TBJC, TAR, TREPAC, and Smith published statements by written communication stating the matters set forth above with respect to these Defendants.

5.3 The statements by each of the Defendants set forth above were made in connection with political campaigns for public office, and therefore constitute public matters.

5.4 Each of the statements referenced above referred specifically to Plaintiff.

5.5 The statements were defamatory because they constitute libel pursuant to Tex. Bus. & Com. Code sec. 73.001 et. seq. Specifically, the statements were in writing and

they unambiguously tended, and indeed were *intended*, to injure Green's reputation and thereby expose him to (1) public hatred, contempt or ridicule, (2) financial injury, and (3) to impeach Green's honesty, integrity, virtue, or reputation. Although Section 73.001 only requires the foregoing forms of libel in the disjunctive, they are all applicable and are therefore stated in the conjunctive. The statements were made with the express purpose being to persuade voters to view Green negatively and, therefore, to vote against him.

5.5 The statements were false as addressed above.

5.6 Each of the Defendants knew that the statements attributed to them as addressed above were false or they acted in reckless disregard as to the statements' truth. Defendant Coppedge was expressly told that some of the statements were false and libelous, yet he persisted in publishing them anyway.

5.7 Defendants' false statements set forth above caused injury to Plaintiff, which caused the following damages: damages for injury to reputation, personal humiliation, and mental anguish.

5.8 Plaintiff also seeks unliquidated damages and exemplary damages. In this latter regard, Plaintiff alleges that the injuries set forth above resulted from Defendants' malice and Defendants' knowledge of the statements' falsity and/or their reckless disregard for the truth, which entitles Plaintiff to exemplary damages under Texas Civil Practice & Remedies Code section 41.003(a).

## **VI. COUNT 2: Defamation by Defendant Texas Tribune**

6.1 Plaintiff incorporates all of the foregoing and succeeding paragraphs into Count 2 to the extent not inconsistent herewith.

6.2 Defendant Texas Tribune, a member of the media, published written statements stating as fact the matters set forth above with respect to such Defendant.

6.3 The statements by Defendant Texas Tribune set forth above were made in connection with political campaigns for public office, and therefore constitute public matters.

6.4 Each of the statements referenced above referred specifically to Plaintiff.

6.5 The statements were defamatory because they constitute libel pursuant to Tex. Bus. & Com. Code sec. 73.001 et. seq. Specifically, the statements were in writing and they unambiguously tended, and indeed were *intended*, to injure Green's reputation and thereby expose him to (1) public hatred, contempt or ridicule, (2) financial injury, and (3) to impeach Green's honesty, integrity, virtue, or reputation. Although Section 73.001 only requires the foregoing forms of libel in the disjunctive, they are all applicable and are therefore stated in the conjunctive. The statements were made with the express purpose being to persuade voters to view Green negatively and, therefore, to vote against him.

6.6 The statements were false as addressed above.

6.7 Defendant Tribune knew that the statements attributed to it as addressed above were false or it acted in reckless disregard as to the statements' truth.

6.7 Defendant Tribune's false statements set forth above caused injury to Plaintiff, which caused the following damages: damages for injury to reputation, personal humiliation, and mental anguish.

6.8 Plaintiff seeks unliquidated damages and exemplary damages. In this latter regard, Plaintiff alleges that the injuries set forth above resulted from Defendants' malice

and Defendants' knowledge of the statements' falsity and/or their reckless disregard for the truth, which entitles Plaintiff to exemplary damages under Texas Civil Practice & Remedies Code section 41.003(a).

### **VII. COUNT 3: Libel Per Se**

7.1 Plaintiff incorporates all of the foregoing and succeeding paragraphs into Count 3 to the extent not inconsistent herewith.

7.2 The written statements by Defendants Coppedge, Phillips, TBJC, TAR, TREPAC, Smith, and Texas Tribune described in Counts 1 and 2 and in the foregoing paragraphs incorporated into those counts were Libel Per Se. Defendants' Statements:

a. Injured Plaintiff's reputation and exposed Plaintiff to public hatred, contempt, ridicule, or financial injury. The statements were made with the express purpose being to persuade voters to view Green negatively and, therefore, to vote against him. The statements encouraged an attitude of contempt and ridicule toward Green. Moreover, the accusation of ethical lapses by a public official even encouraged a sense of public hatred toward Green. By attempting to encourage voters to view Green negatively and to vote against him, such statements also adversely affected Green in his occupation as a speaker, including at Christian events where a negative view of his honesty, integrity, and virtue would be expected to cause a loss of speaking engagements or at the very least a jaundiced view toward him.

b. Impeached Plaintiff's honesty, integrity, virtue, or reputation. The same reasons set forth above also demonstrate how these qualities of Green's character were impeached by the Defendants' statements.

7.3 The defamatory statements referenced above require no proof of its injurious character because they were obviously hurtful to Plaintiff.

#### **VIII. COUNT 4: Defamation Per Se**

8.1 Plaintiff incorporates all of the foregoing and succeeding paragraphs into Count 4 to the extent not inconsistent herewith.

8.2 The written statements by Defendants Coppedge, Phillips, TBJC, TAR, TREPAC, Smith, and Texas Tribune described in Counts 1 and 2 and in the foregoing paragraphs incorporated into those counts were defamatory per se under the Texas common law.

8.3 Defendants' statements Injured Plaintiff in Plaintiff's office, profession and/or occupation. Specifically, at the time each of these statements was made, Green was a candidate involved in a run-off for the Republican primary for a place on the Texas Supreme Court. As such, the former State Representative was a past and potential future political office holder. Green was, at the time of the statements, a national speaker for Wallbuilders, a Christian ministry and educational and historical advocate. Both his former and hopeful future political aspirations and his occupation with Wallbuilders required Green to have a reputation for honesty, integrity, ethics, good judgment, and virtue.

8.4 The statements by the Defendants referenced above all attacked Green's ethics, judgment, honesty and integrity. The statements were politically motivated and designed to impugn and damage Green's reputation, specifically asking voters to focus on the false allegations and, based thereon, vote for Green's opponent. These efforts were no doubt successful in causing voters to reject Green and vote for his opponent. They likely even actually swayed the election result because Green actually led all of the six Republican

candidates in the initial primary (before the specific statements at issue in this lawsuit) and he lost the run-off by a very close margin with Green garnering more than 48% of the votes. In addition, while Green's occupation has him speaking in venues all over the country, a lot of his work in that regard is in Texas. A damaged reputation and impressions and opinions of distrust, dishonesty and a lack of ethics and integrity has likely resulted in voters not voting for Green and in many people across Texas and the nation not wanting to have anything to do with Green.

#### **IX. Jury Demand**

10.1 Plaintiff demands a jury trial and tenders the appropriate fee with this Petition.

#### **X. REQUEST FOR DISCLOSURE**

11.1 Pursuant to TEX. R. CIV. P. § 194.1, it is requested that Defendant disclose within fifty (50) days of the service of this request, the information or material described in the Rule.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs request that the Court set this case for trial, and upon trial, award in favor of Plaintiff against Defendants, the following:

- a. Actual damages,
- b. exemplary damages,
- c. pre-judgment and post-judgment interest,
- d. costs of court, and
- e. all other and further relief, general or special, at law or in equity, to which he may be justly entitled.

Respectfully submitted,

**WATT LAW FIRM, P.C.**

By: *Edward P. Watt*

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October 8, 2002

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101 Hays Street, Suite 414  
Dripping Springs, Texas 78620**

**Re: Focus Factor Testimonial/Endorsement**

Dear Rick:

As you requested, I enclose a copy of the Standard "On-Air" Release and Affidavit (the "Release") you signed in connection with your Focus Factor endorsement/testimonial.

On behalf of Vital Basics, Inc. (formerly known as Talk America, Inc.), I also want to confirm that, as set forth in (2) of the second paragraph of the Release, Vital Basics, Inc. did not compensate you in any way for your endorsement/testimonial.

Do not hesitate to call me if you have any questions.

Sincerely yours



Jonathan Shapiro

cc: Vital Basics, Inc.



**STANDARD "ON-AIR" RELEASE AND AFFIDAVIT**

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, I hereby give Talk America, Inc. its representatives and assigns, employees, or any person, persons, corporation or corporations acting under its permission or authority, or any person, persons, corporation or corporations for whom it might be acting, the right and permission to publish, reproduce, distribute and/or otherwise use any still or moving photographic or sound recording of me, in whole or in part (the "Performance"),

~~Not~~ limited to any statement or endorsement (including any letter or photograph), or any portions thereof (the "Testimonial"), made by me regarding or related to the products known as "Focus Factor" in such manner, for such purposes and with such frequency as it shall determine in its sole discretion without further compensation or consideration to me and without further authorization by me. I further acknowledge that the Performance and/or Testimonial shall constitute the sole property of Talk America, Inc.

I also affirm (1) that my statements or endorsements made by me in the Performance and/or Testimonial are factually accurate and represent my honest opinions, findings, beliefs, or experiences, (2) that I was not compensated in exchange for my endorsement, (3) that there exists no material connection between myself and Talk America.

I hereby waive all rights of inspection or approval with regard to any recording, taping, reproduction, proposed printed, audio or video publication and/or other use of the Performance and/or Testimonial. I also hereby release, discharge and agree to hold harmless Talk America, Inc., its shareholders, directors, officers, employees, representatives, assigns or any person, persons, corporation or corporations for whom it might be acting, including, any person, persons, corporation or corporations distributing or disseminating advertising for "Focus Factor" from and against any and all liability resulting from its use of the Performance and/or Testimonial or related to my use of the products.

I hereby warrant that I am over eighteen years of age, and competent to contract in my own name. I have read this release and affidavit before affixing my signature below, and warrant that I fully understand the contents thereof.

*Rick Green* 5/25/00  
Name Date  
2795 Hwy 290 W.  
Address  
Drifting Springs, TX 78620  
City State Zip  
512 858-0974  
Telephone

\_\_\_\_\_  
Witness Date

**Richard Mays, Receiver**  
SEC v. Melvin H. Cox and Fairfield Investments, Inc., et al  
P.O. Box 2829  
McKinney, Texas 75070

September 11, 2002

**TO WHOM IT MAY CONCERN:**


As a result of recent inquiries, I write this to provide information involving the Fairfield Investment Company, Inc.'s Receivership and its dealings with Krestmont International, Inc. I am the person who served as the Federal Court appointed Receiver for the assets of Fairfield Investment Company, Inc., Melvin H. Cox, et al. The assets of Mr. Cox and Fairfield Investments, Inc. were seized after a SEC investigation. I was charged with liquidating the assets in order to return as much money as possible to the investors of Fairfield Investment Company, Inc.

One of the assets was a consolidation loan in the amount of \$400,000.00 made by Krestmont International, Inc. This loan represents the total amount loaned to Krestmont over a period of approximately three years. The note representing the loan states on its face that all previous notes were rolled into that note.

The note was satisfied by Krestmont and Krestmont's principals, Richard Green, Sr. and Richard Green, Jr. The form of payment was both cash and stock.

It should also be noted that after thorough investigations by the FBI, the SEC, and my office, I am not aware of any wrongdoing on the part of either Richard Green, Sr. or Richard Green, Jr. I hope this helps to provide information regarding these transactions.

Submitted by:

  
RICHARD MAYS, Receiver



**Rosemary Lehmborg** ★ Travis County District Attorney  
P.O. Box 1748 Austin, Texas 78767 • Telephone: 512-854-9400 • Fax: 512-854-4810

March 23, 2009

Rick Green  
P.O. Box 900  
Dripping Springs, Texas 78620

Mr. Green,

Per your request, I am writing this letter to provide formal notification of the disposition of the matter that this office reviewed regarding your actions while serving as a member of the Texas Legislature.

As you are probably aware, the Travis County Attorney's office referred an investigation into the possible criminal violation of §572.052 of the Texas Government Code, Representation by Legislators Before State Agencies, to this office due to a conflict of interest. The Public Integrity Unit reviewed the matter and determined that it should be closed without charges or presentation to a grand jury.

The case was closed administratively on July 28, 2006.

If you have any questions, please call me or Lt. Matthew Langan at 512-854-9530.

Sincerely,

Gregg Cox  
Director, Public Integrity Unit

The Torch of Freedom Foundation and State Representative Rick Green cordially invite you to a dinner with

Ambassador Alan Keyes  
Chairman, Declaration Foundation

Wednesday, March 14, 2001  
6:00 p.m. Private Reception for Event Sponsors  
7:00 p.m. Dinner

Capitol Marriott  
Austin, Texas

Please RSVP to 512.858.0974  
Seating Limited  
By Monday, March 12<sup>th</sup>  
Tickets \$100 per person

#### Sponsorship Levels

##### Event Co-chair

Includes 8 tickets to dinner, a photograph with Ambassador Alan Keyes, a pre-release copy of the Declaration Foundations publication *America's Declaration Principles in Thought and Action* by Dr. Richard Ferrier and Mr. Andrew Selley with forward by Ambassador Keyes, private reception with Ambassador Keyes and Texas elected officials, special recognition of sponsorship and preferred seating.

##### Event Sponsor

Includes 6 tickets to dinner, a photograph with Ambassador Alan Keyes, private reception with Ambassador Keyes and Texas elected officials, special recognition of sponsorship and preferred seating at event.

##### Table Sponsor

Includes 4 tickets, signed photograph of Ambassador Keyes, special recognition of sponsorship and preferred seating at event.

**PARTIES IN CASE:**

**RICK GREEN,  
Plaintiff**

**V.**

**THOMAS R. PHILLIPS,  
JOHN R. COPPEDGE, M.D.,  
THE TEXAS TRIBUNE, INC.,  
MORGAN SMITH,  
TEXAS ASSOCIATION OF  
REALTORS, INC., TEXAS  
BIPARTISON JUSTICE  
COMMITTEE, AND TEXAS  
ASSOCIATION OF REALTORS  
POLITICAL ACTION  
COMMITTEE,  
Defendants**